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17 March 2008

Ken Wiseman
Executive Director
CA Marine Life Protection Act Initiative (MLPA)
California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

RE: California Marine Life Protection Act Initiative - Objection / Request for
Information / Comments for Administrative Record / Public Comments to DEIR

Dear Mr. Wiseman:

Thank you for your presentation on Friday, February 8, 2008 in Pacifica regarding the above. At that time, and again herein, the undersigned raises concerns and requests additional information.

1. INTRODUCTION & BACKGROUND

I have been a California Coastsides resident for over 15 years. I currently live in Pacifica, CA. I am an environmental attorney with 15 years of experience in government and private practice. I have a Certificate in Environmental and Natural Resources Law and I am also a Registered Environmental Assessor. The undersigned also sits on the Board of the Law of the Oceans, a non-profit based in Santa Barbara, CA.

As an environmental attorney, I have litigated many matters. Among them, I helped protect the bluff tops in Half Moon Bay from impermissible development along the Oceanshore railroad right of way. In addition, I am the only person I know that has proceeded under the emergency provisions of the Endangered Species Act to advance rapid construction to save the drinking water supply of a city. This was in Safford, Arizona while I was an environmental attorney for

the Federal Emergency Management Agency (FEMA Disaster Number DR #0977). I received a commendation from the Lieutenant Governor of Arizona for my leadership in Safford.

I most recently brought a Writ of Mandamus against the Montara Water and Sanitary District (MWSD) regarding its attempt to build a new million gallon water tank and fill it with newly discovered water, fueling Coastsides growth, without sufficient environmental documentation. As one result of our suit, the MWSD told the Superior and Appeal Courts that its EIR was “a mistake.” That matter is currently still under review and pending before the Coastal Commission. In this instance, I am writing this letter as a private citizen, a private citizen very concerned about the instant project.

2. MARINE / SCIENTIFIC / ENVIRONMENTAL ISSUES TAKE BACK SEAT WHILE GIVING APPEARANCE SCIENCE + NEEDS OF SPECIES AT FOREFRONT VIA VERY MISLEADING MAPS

The scientific facts underlying preservation of the marine environment are not driving this process, despite a façade to the contrary. The concerns and studies of the scientists are not driving this process. Instead, it looks like the process is being driven with a goal of reaching a compromise with all the interests, especially commercial fishing interests, despite the scientific data. Worse, the process is designed to make it appear as if there is the scientific interests and the environmental interests are represented fully, when in fact these interests have been minimized and marginalized, while the system is designed to make the opposite appears true. This is done primarily via a system of deceptive and misleading maps as explained below.

The project currently has six maps. The first map is called “Draft Proposal 1 (EC)”. The second map is called “Draft Proposal 2 (JD)”. The third map is called “Draft Proposal 3 (TC)”. The fourth map is called “Draft Proposal 4 (JC)”. The fifth map is called “External A”. The sixth map is called “Proposal 0.”

The sixth map Proposal 0” is the current map (a no action alternative). It *appears* that each of these five other maps represents five distinct alternatives, one being the scientific, one being the environmentalists, one being commercial fisherman, and so forth. This is not true. It may be unintentionally misleading or otherwise, but misleading it is.

There is NO map that represents only the scientific beliefs. There is NO map that represents only the environmentalists’ beliefs. There IS a map that represents the commercial fisherman’s interests. That is the ONLY “pure” interest represented. All the other maps all represent what the commercial fisherman want with some compromise with environmentalists and others.

I use maps from Subregion 4 (Double Point to Point Arena) dated 1/24/08 in this letter herein to illustrate my points, but each point is exactly applicable to all region.

3. ALL OTHER 4 MAPS WERE MADE WITH COMPROMISE WITH COMMERCIAL FISHERMAN IN PRIOR ROUND - FIFTH MAP ADDED THIS ROUND IS “EXTERNAL A” IS WHAT ONLY COMMERCIAL FISHERMAN WANT - NOT A PRODUCT OF ANY PRIOR COMPROMISE – THIS MAP WILL BE USED FOR YET ANOTHER FURTHER FUTURE ROUND OF COMPROMISE WITH CURRENT FOUR OTHER MAPS THAT WERE ALREADY RESULT OF PRIOR COMPROMISE WITH COMMERCIAL FISHERMAN

It is not apparent that this map “External A” is by the commercial fisherman. This is made worse by fact that all other maps were product of compromise in earlier round with Commercial Fisherman. This is made worse by the fact that all of this information is not readily apparent. This is made worse by the fact that it seems likely that the next round will involve further compromise among the maps. This is made worse by the fact that there is no pure map that reflects what the environmentalists want, and no pure map what the radical environmentalists want, and no pure map of what the scientists want and no pure map showing the location of endangered species, so that these maps, along with the pure commercial fisherman map might be considered in this further round of compromise.

4. REGARDING THE 5 MAPS – REQUESTS FOR INFORMATION - WHO IS BEHIND EACH MAP / NOT CLEAR / NOT TRANSPARENT / APPEARS MISLEADING / EACH FIVE PRIOR MAPS WERE MADE WITH COMPROMISE WITH COMMERCIAL FISHERMAN BUT THAT IMPORTANT FACT NOT CLEAR / NOT STATED

Please tell me the names and entities that were specifically involved in the delineation of each North Central Coast Project, all subregions. It is not transparent the way it is. It does appear that you have divided the Coast into units that may be appropriate for study, but would be challenged as improper segmentation under CEQA, if not considered one project.

Moreover, it looks to many viewers that each map represents a differing viewpoint or plan. In fact, each map is a compromise previously done among environmentalists, commercial fisherman and others. I had referred to these maps as a prior horse trade.

5. NO MAP COULD BE FOUND SHOWING WATERS THAT CONTAIN ENDANGERED SPECIES

Please provide me a map, if one exists, to scale of the other maps, with a new color of hash marks delineating areas where there are endangered species.

6. NO MAP COULD BE FOUND SHOWING MAP THAT SCIENTISTS BELIEVE IS NECESSARY TO PROTECT THE MARINE ENVIRONMENT

Please provide me a map, if one exists, to scale of the other maps, with a new color of hash marks delineating areas showing areas that scientists have suggested require protection based upon the science. We understand that there are maps from prior attempts at an MLPA produced by related science advisors. What did those prior scientists support? What do the current scientists support? There are no maps showing either of these important groups. Each should be its own map.

7. NO MAP COULD BE FOUND SHOWING WATERS THAT ENVIRONMENTAL GROUPS SUPPORT WITHOUT PRIOR COMPROMISE

Please provide me a map (or maps), if one exists, to scale of the other maps, with a new color of hash marks delineating areas showing areas that various environmental groups have suggested, without the prior compromise to dilute its intent. Environmental Groups that come to mind include NRDC, Audubon (who was talked down to at the February 8 hearing), PETA, Law of the Oceans, and Earthjustice.

8. CEQA QUESTIONS – ALL MAPS SIMILAR, RESULT OF SIMILAR PRIOR HORSE TRADING / NOT A REASONABLE RANGE OF ALTERNATIVES / ALSO PROJECT DIVIDED WITH IMPROPER SEGMENTATION UNDER CEQA

The maps offered do not represent a reasonable range of alternatives under CEQA due to the similarities of same. In addition, it does appear that you have divided the Coast into units that may be appropriate for study, but would be challenged as improper segmentation under CEQA.

Also, the undersigned does not follow your current CEQA process. It does appear that perhaps you have determined final agency action and published a Certification of an EIR for parts of this plan, maybe also have draft EIR's circulating for related parts, even while this MLPA process is ongoing and continuing. Please advise.

9. STAKEHOLDER RANGE AND EMPOWERMENT ISSUES

Please provide information regarding the state holders. It does seem from an initial review of your website that the majority of the stake holders represent commercial fishing interests. Please advise how stakeholders were solicited and selected. It does appear that current use of a range of stakeholders is to give the project an air of inclusiveness, but the stakeholders are only marginally empowered. Moreover, the project and the stakeholders impact is mitigated by use of the misleading maps as set forth above. Nevertheless, the undersigned also hereby requests to be added as a stakeholder.

10. CONCLUSION / REQUEST FOR INCLUSION IN MAILING LISTS / ADMINISTRATIVE RECORD / ANY & ALL MLPA DEIR COMMENTS

I look forward to obtaining materials from you and attending additional meetings to help clear up what might be a series of misunderstandings. Also to that end, please be certain that I am added to your mailing lists.

In addition, **this is request that this letter be included in the official administrative record of these proceedings. I would also like this letter to be considered as my comments to any and all draft EIR's that might be produced regarding the entire MLPA & each and every and any Subregion.**

We do believe that a compromise is possible that is mutually beneficial to all interests. We are concerned, however, that this process, as being implemented, currently does not provide sufficient information or techniques to accomplish same, although an appearance of the reverse is true.

Moreover, we are concerned that we will obtain a compromise using the current process, although keeping all happy in the short term, will provide irreversible failure for all parties in the longer term. Therefore, we consider this letter to be on the behalf of, and to the benefit of all parties concerned.

Please do not hesitate to write if you have any questions or if I may of any assistance to you. Thank you in advance for your attention and assistance.

Sincerely,
LAW OFFICE OF HERMAN I. KALFEN

A handwritten signature in black ink, appearing to be 'H. Kalfen', written over the typed name.

Herman I. Kalfen, JD, REA

Attachment: set of six color maps (size reduced)

Cc: Concerned Citizens / Entities Mailing List

Double Point to Point San Pedro

